

Blue Cross Blue Shield of Michigan Reform Legislation

Three necessary steps to improve protection of Michigan health insurance consumers:

1. Consumer protection through regulatory reform -

- BCBSM remains a nonprofit health insurer and will keep its special charitable and benevolent mission.
- BCBSM remains the insurer of last resort, meaning that every Michigan citizen is guaranteed health insurance coverage by BCBSM.
- All current, strong medical and personal information privacy protections in Michigan remain.
- BCBSM will use more conservative, modern, and protective accounting.
- Shortened timelines for BCBSM to respond to customer complaints and denials, as well as the time needed to develop new products.
- Consumer protection in the event that BCBSM decides to become a for profit company.

2. Consumer protection through board of director's reform -

- A smaller more efficient and effective Board of Directors.
- A BCBSM Board of Directors with a clear customer focus.
- Appointments to the Board of Directors that will keep the strong public and senior citizen representation.

3. Consumer protection through small group market reform -

- Consistent treatment and protection for all small group employers from all insurance companies offering coverage in the small group market.
- Prices for health insurance that will be constrained within reasonable rates and should allow companies to more precisely set rates for a small group.
- Increased interest from insurance companies in Michigan's market.
- Pricing based on health or denial of insurance based on health is not allowed.
- Guaranteed coverage from every insurance company in the small group market for every Michigan employer who qualifies for small group health insurance coverage.
- Participation rules should make health insurance more affordable in Michigan.

MICHIGAN OFFICE OF FINANCIAL AND INSURANCE SERVICES

Executive Summary of the Blue Cross Blue Shield of Michigan Reform Legislation HB 6045 & HB 6046

“The Three Legged Stool”

There are three consumer protection issues involved with Blue Cross Blue Shield of Michigan (BCBSM) reform. One is the need for market reform, the second aspect is regulatory reform and the third leg is board reform. If any leg of the stool is missing, reform will be out-of-balance and will probably require the legislature to revisit the issue sooner than necessary.

Leg One – Consumer Protection Through Small Group Market Reform

- ▶ In Michigan during 2000, there were 1.9 million Michigan citizens covered in the small employer health insurance market (groups of 2 to 50). 57% (1.1 million people) were covered by BCBSM and another 276,000 people (14% share) were covered by Blue Care Network (BCN) of Michigan (wholly owned by BCBSM). The grand total of people covered by BCBSM in the small group market is 1.4 million people, a 71% market share. The next biggest player in this market, with reported coverage of 211,000 people (11% market share) is Gerber Life Insurance Company. All other insurers and Health Maintenance Organizations (HMO) had market shares below 5%.
- ▶ BCBSM and BCN both use adjusted community rating for the small group market – this means that their rates vary based on geography, family composition, benefit plan, and industry. The other HMOs in this market also use adjusted community rating for the small group market, with some using factors in addition to those used by BCN such as age and gender demographics. Neither BCBSM nor HMOs bases small group rates on the health status of the group.
- ▶ Since the enactment of the Federal Health Insurance Accountability and Portability Act in 1996 (HIPAA), BCBSM has been relieved of its role as the market of last resort for small group health insurance in Michigan. HIPAA requires all insurers of small groups, whether they be commercial, HMO or BCBS, to guarantee the issue of all small group products to all interested groups of 2 to 50 employees that meet participation and contribution requirements.
- ▶ A new chapter 36a in the Insurance Code is being created to protect Michigan consumers by establishing common marketplace rules for BCBSM, HMOs and insurance companies. By utilizing the current, HIPAA compliant, NAIC small group market model act, the following is being accomplished:
 - ◆ Common rules are created for all insurance carriers for pricing products in the small group market.
 - Choice of products in the small group market is increased through price and quality competition.
 - Prices would be constrained within reasonable rate bands.

- ◆ Stability and affordability in the small group market are promoted by adoption of the following:
 - Consumers are protected by the prohibition of underwriting and rating based on health status.
 - A common definition of a small employer, which includes groups of 1 (eligible sole proprietors) through groups of 99. The HIPAA definition covers only groups of 2 to 50.
 - A common participation ratio (75% rule) to end adverse selection (cherry picking) to the extent that it occurs.
- ◆ By leveling the playing field in the small group market, we accomplish the following:
 - Will smooth out the rate increases by matching the increasing rates at the same rate of rising health care costs.
 - Through consistent, nationally accepted market rules, will increase competition by attracting other players and encourage participation by other companies that are not currently operating in Michigan. This protects consumers by not having all health care eggs in one/few baskets.
 - Small employers can rely on the same protections from all carriers in this market rather than relying solely on BCBSM as the insurer of last resort. (BCBSM will remain insurer of last resort in the individual market.)
 - It is clear from reviewing small group market reforms in other states that it has not dampened competition.
 - This reform in other states has not caused major market disruptions.
 - By taking into consideration very small groups, we protect more consumers.
 - Availability of affordable insurance helps employers attract employees.
- ◆ Access to small employer coverage would be guaranteed by state law. This expands protections regarding guarantee issue in federal law.
- ◆ Small group coverage would be more affordable by improving the health of the small group pool through reduction of adverse selection.
- ◆ Permit associations to competitively market to small groups.
- ◆ It isn't a guess as to what small group market reform will do in Michigan – it has been enacted in several states. Michigan is one of the last states to enact reforms and can draw on the experience of other states. (For more information, please visit the Wake Forest University Health Insurance Market Reform Study web page at <http://www.phs.wfubmc.edu/insure/reports.html>. The web page provides reports for the Colorado, Florida, Iowa, New York, North Carolina, Ohio and Vermont markets.)

Leg Two – Consumer Protection Through Blue Cross Blue Shield of Michigan Regulatory Reform

- ▶ Provisions of P.A. 350 are being moved to a new chapter 37 of the Insurance Code. BCBSM will remain a nonprofit health insurer.
- ▶ BCBSM's special charitable and benevolent mission is specifically retained.
- ▶ BCBSM will remain the insurer of last resort, meaning that every Michigan citizen is guaranteed health insurance coverage by BCBSM.
- ▶ Applying the Insurance Code to BCBSM gives greater protection to Michigan citizens regarding the business operations of BCBSM.
- ▶ Strengthen consumer protection for BCBSM's Michigan customers by:
 - ◆ Requiring BCBSM to use more conservative and protective insurance accounting principals instead of general accounting principals, which will have the following results:
 - Eliminates the ability to turn a loss into an asset.
 - Creates a limited new avenue (surplus notes) to acquire additional capital for such things as technology investment.
 - Puts all health carriers, including HMOs, BCBSM, and commercial insurers, on the same conservative financial reporting basis, which makes comparisons easier.
 - Recognizes that administrative service contract income is fee income rather than premium income.
 - ◆ Creating a uniform method of evaluating capital adequacy, which will have the following results:
 - Modernizes the current BCBSM "target reserve" risk-based capital model by replacing it with the nationally accepted risk-based capital calculations already applied to HMOs and insurers.
 - Better protects consumers by requiring progressive corrective action by BCBSM consistent with that required of HMOs and insurers.
 - ◆ Protecting BCBSM's solvency by requiring regulatory approval for major business transactions, such as buying a company or shifting money between BCBSM and its subsidiaries. Such approval is required currently for transactions involving HMOs and insurance companies.
- ▶ Streamlining of key regulatory processes include:
 - ◆ Allowing the BCBSM board to focus on key strategic initiatives rather than day-to-day operational matters.
 - ◆ Better serving customers by reducing the time needed for product and rate development and approval.

- ◆ Shortening the time for BCBSM to respond to customer grievances about coverage denial.
- ◆ Empower medical providers to directly enforce contractual provisions with BCBSM.
- ▶ Modernization of key regulatory processes include:
 - ◆ Replacing costly and useless provider class plan reviews with accepted and effective methods for evaluating network adequacy and quality of care.
 - ◆ Better service to customers by clarifying that BCBSM can contract directly with health care providers in other states.
 - ◆ With appropriate protections for consumers, permit BCBSM to market long-term care insurance and to operate directly in other states at the discretion of the board of directors.
 - ◆ Retain strong medical and personal information privacy protections for BCBSM subscribers.
- ▶ Legal Structure
 - ◆ Retain BCBSM nonprofit corporate status and charitable mission.
 - ◆ Given the reduction in the number of Blue Cross plans nationally, from 134 to 44 since 1986, Michigan's law must contain tough provisions for review and approval of a possible sale or conversion to for-profit status.
 - ◆ Nothing in current law prevents the sale or conversion of BCBSM. This means that there is no consumer protection or regulatory input safeguarding the public interest in the event of a purchase or acquisition of BCBSM by another plan.
 - ◆ Create three levels of review and approval for any change in BCBSM's corporate status, as follows:
 - Recommendation begins with the BCBSM board of directors submitting a plan to the Commissioner.
 - Thorough review of the proposal by the Commissioner, providing for:
 - Public participation.
 - Independent valuation of company assets.
 - No enrichment for company board members or management.
 - Creation of a trust fund with an independent board of directors to receive and administer the proceeds of the conversion.
 - Statutory definition of the purposes for which the proceeds may be used.
 - Final approval by the Michigan Legislature.
 - ◆ Protect Michigan citizens by requiring proceeds from any sale or conversion to continue funding BCBSM's charitable mission.

Leg Three – Consumer Protection Through Blue Cross Blue Shield Board of Directors Reform

- ▶ The board of directors is the policy-making body for BCBSM. At 35 members, it is far larger than the boards of directors of other Blue Cross plans and for insurance companies and HMOs. Reducing the number of members would better enable prompt and effective decision-making.
- ▶ Establish a clear customer focus for the board, by:
 - Reducing the slotting of members into various special interest classes.
 - Eliminating inherent conflicts of interest by removing health care providers from the existing board.
 - Eliminating distortions of representation by reducing the number of representatives from self-insured groups and increasing the representation of underwritten groups to more accurately reflect BCBSM's book of business and the interests of its customers.
 - Retaining strong public representation on behalf of the beneficiaries of BCBSM's charitable and benevolent mission, in particular, senior citizens.
 - Creating a Provider Advisory Council to provide expert advice to the board on such important matters as participation contracts, medical service coverage, and access to care.
- ▶ Provide for a smooth and efficient transition from the existing board to the new board in a manner that provides continuity and stability for the company.

For further information on the Blue Cross Blue Shield reform effort:
www.cis.state.mi.us/ofis/pubs/releases/archive/2001/010914pr.asp.